

84



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,277	08/27/2003	Geoffry A. Westphal	31083.07US2	5507
34018	7590	08/29/2005	EXAMINER	
GREENBERG TRAURIG, LLP 77 WEST WACKER DRIVE SUITE 2500 CHICAGO, IL 60601-1732			LAROSE, COLIN M	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 08/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/649,277

Applicant(s)

WESTPHAL ET AL.

Examiner

Colin M. LaRose

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

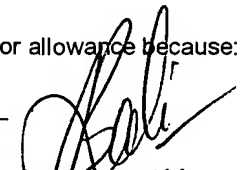
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


VIKRAM BALI
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant asserts (p. 3-4 of Response) that Kutcha teaches only storing "original" images in the dual resolution format and therefore teaches away for storing altered "resultant" images. Examiner maintains the previous rejection insofar as Kutcha discloses storing images in the dual resolution format for convenience of thumbnail display and appears to be unconcerned with what has happened to the image or will happen to the image. As Takagi provides thumbnail resultant images for a user to select a desirable one, Kutcha provides the motivation to store both the thumbnail version and the high-resolution version of the selected image... As to the purpose of selecting the images, Applicant argues that Takagi does not teach storing the selected resultant image and that Takagi discloses selecting the image for a different purpose -- for capturing and storing only a high resolution version of the selected resultant thumbnail image. However, as explained previously, Kutcha provides the teaching and motivation to store both the high-resolution and thumbnail version of the selected resultant image in a concatenation file, as claimed.

Regarding claims 25 and 27 (p. 4-5 of Response), Applicant seems to suggest that Kagle does not disclose rotating the compressed image into some orientation from the original orientation, and then re-rotating the decompressed image into the original orientation for display. Examiner agrees with this assessment, as Kagle either (1) embeds a flag upon capture and then rotates the image accordingly for display, or (2) rotates the image before storage into a desired orientation so no further rotations are needed. However, it is not clear that this "purposeful" rotation described by the Applicant is particularly claimed. The claims call for including "data indicative of the degree to which each of the compressed images was rotated/flipped as compared to its corresponding original image." Examiner believes that Kagle's flagging process satisfies this limitation, as it provides an indication of whether a stored, compressed image (e.g. stored in a landscape orientation) corresponds to the orientation of the originally captured image (e.g. an image captured with the camera in a portrait orientation). Examiner believes that Applicant's described "purposeful" rotation/flipping process distinguishes from Kagle, and Applicant is respectfully invited to more particularly claim this feature of the invention to differentiate from Kagle.



VIKKRAM BALI
PRIMARY EXAMINER